

EMERY CELLI BRINCKERHOFF & ABADY LLP

RICHARD D. EMERY
ANDREW G. CELLI, JR.
MATTHEW D. BRINCKERHOFF
JONATHAN S. ABADY
EARL S. WARD
ILANN M. MAAZEL
HAL R. LIEBERMAN
DANIEL J. KORNSTEIN
O. ANDREW F. WILSON
ELIZABETH S. SAYLOR
KATHERINE ROSENFELD
DEBRA L. GREENBERGER
ZOE SALZMAN
SAM SHAPIRO

ATTORNEYS AT LAW
600 FIFTH AVENUE AT ROCKEFELLER CENTER
10TH FLOOR
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000
FAX: (212) 763-5001
www.ecbalaw.com

DIANE L. HOUK
ALISON FRICK
DAVID LEBOWITZ
DOUGLAS E. LIEB
ALANNA KAUFMAN
EMMA L. FREEMAN
DAVID BERMAN
HARVEY PRAGER
SCOUT KATOVICH
NICK BOURLAND
ANDREW K. JONDAHL

March 29, 2020

By ECF

Douglas C. Palmer
Clerk of Court
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Hassan Chunn et al. v. Warden Derek Edge, 20 Civ. 1590

Dear Mr. Palmer:

Petitioners Hassan Chunn, Nehemiah McBride, Ayman Rabadi, and Justin Rodriguez, by and through their attorneys, Emery Celli Brinckerhoff & Abady LLP, the Cardozo Civil Rights Clinic, and Alexander A. Reinert, submit this Related Case Statement pursuant to Rules 1.6(a) and 50.3.1 of the Local Rules of this Court. This case is related to a case currently pending before Judge Margo K. Brodie: *Federal Defenders of New York, Inc. on behalf of itself and its clients detained at the Metropolitan Detention Center – Brooklyn v. Federal Bureau of Prisons and Warden Herman Quay*, 19 Civ. 660. Pursuant to Local Rule 50.3.1, Plaintiffs make this application after serving the Defendant.¹ Defendant Edge consents to this request to have this case marked related to *Federal Defenders*.

The Petitioners in *Chunn* filed a habeas Petition on Friday, March 27, 2020, on behalf of themselves and all others similarly situated. The case seeks the immediate release of individuals detained at Brooklyn's federal jail, the Metropolitan Detention Center ("MDC"), who are most vulnerable to succumbing to COVID-19 and a special master to oversee their release as well as improvements in the conditions of confinement at the MDC to combat the spread of the virus.

¹ In light of the exigencies of the COVID-19 crisis, Petitioners served the Defendant and the United States via email. Assistant United States Attorney Seth Eichenholtz has consented to service via email on behalf of the Defendant and the United States.

This case is related to *Federal Defenders* because both address conditions at MDC generally, and, now, the COVID-19 crisis, in particular. *Federal Defenders* arises out of the conditions crisis at MDC that commenced on January 27, 2019 after a fire and power failure at the jail. Most recently, the Second Circuit vacated the District Court's dismissal of the complaint in that case for failure to state a claim. *Fed. Defs. of New York, Inc. v. Fed. Bureau of Prisons*, No. 19-1778, 2020 WL 1320886, at *1 (2d Cir. Mar. 20, 2020). The Second Circuit "urge[d] in the strongest possible terms that, as soon as the District Court again has jurisdiction over this case, it consider convening the parties to obtain their advice as to the appointment of an individual with the stature, experience, and knowledge necessary to mediate this weighty dispute and ultimately facilitate the adoption of procedures for dealing with ongoing and future emergencies, including the COVID-19 outbreak." *Id.* at at *12. On March 24, 2020, Judge Brodie issued an order appointing the Honorable Loretta Lynch as a mediator, per the urging of the Second Circuit to address, among other things, access to counsel during the COVID-19 pandemic. *See Federal Defenders*, 19 Civ. 660, Dkt. 42.

In light of the recent Second Circuit decision in *Federal Defenders*, and the District Court's subsequent actions in that case, *Chunn* should be related to *Federal Defenders*. Both cases address the ways in which the MDC is confronting the COVID-19 outbreak. As a result, the cases have significant overlapping factual and legal issues. Moreover, in light of Judge Brodie's appointment of a mediator to confront aspects of the MDC's COVID-19 response in *Federal Defenders*, a substantial saving of judicial resources is likely to result from assigning both cases to Judge Brodie.

Both this action and *Federal Defenders* confront related questions at the intersection between Constitutional rights, prison management, and public health. The burdens on all parties and the Court can be significantly curtailed if the cases are marked as related. Petitioners therefore respectfully request that the Court grant their application to have this matter marked as related to *Federal Defenders*.

Respectfully Submitted,

_____/s_____
Katherine Rosenfeld
O. Andrew F. Wilson
Samuel Shapiro
Scout Katovich

c. Richard P. Donoghue and Seth Eichenholtz, Counsel for Defendant (*via email*)